

Notice of Allowability

Application No.

10/081,333

Examiner

Susan T. Tran

Applicant(s)

RILEY, LORRI

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to response filed 07/31/06.
2. ☒ The allowed claim(s) is/are 6-18, 20 and 21.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 10/09/06.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with J. David Wharton on 10/09/06.

The application has been amended as follows:

Claim 6, line 6, after the phrase "an applying agent", the phrase "selected from the group consisting of lotion, ointment, nail polish, and combinations thereof" has been inserted.

Claim 6, last line, the term "ointment" has been amended to "applying agent".

Claim 9, line 6, after the phrase "an applying agent", the phrase "selected from the group consisting of lotion, ointment, nail polish, and combinations thereof" has been inserted.

Claim 9, last line, before the phrase "an antibiotic", the phrase "an effective quantity of" has been inserted.

Claim 9, last line, after the word "antibiotic", the phrase ", wherein said formulation is about 0.5 to 50% by weight calcium hydroxide, about 05 to 50% sodium hydroxide, about 0.5 to 80% by weight an antifungal agent, and about 20 to about 95% applying agent" has been inserted.

Claim 10, line 4, after the phrase "an applying agent", the phrase "in a formulation comprising about 0.5 to 50% by weight calcium hydroxide, about 05 to 50% sodium hydroxide, about 0.5 to 80% by weight an antifungal agent, and about 20 to about 95% applying agent, said applying agent being selected from the group consisting of lotion, ointment, nail polish, and combinations thereof" has been inserted.

Claim 11, line 2, after the word "adding", the phrase "an effective quantity of" has been inserted.

Claim 12, lines 2-3, the phrase "comprised of a mixture of calcium hydroxide, sodium hydroxide, an antifungal agent, and an applying agent" has been amended to "comprising: calcium hydroxide; sodium hydroxide; an antifungal agent; and an applying agent selected from the group consisting of lotion, ointment, nail polish, and combinations thereof, wherein said formulation is about 0.5 to 50% by weight calcium hydroxide, about 05 to 50% sodium hydroxide, about 0.5 to 80% by weight an antifungal agent, and about 20 to about 95% applying agent; and".

Claim 20, line 1, the phrase "claim 5" has been amended to "claim 6".

Claim 21, line 1, the phrase "claim 5" has been amended to "claim 6".

Claims 5 and 19 have been cancelled.

The following is an examiner's statement of reasons for allowance:

The closest prior art, Ptchelintsev, teaches topical nail composition comprising sodium hydroxide, calcium hydroxide, and other inorganic hydroxide. However, Ptchelintsev does not teach combination of sodium hydroxide and calcium hydroxide.

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Ptchelintsev further does not teach the claimed amounts of the ingredients recited in the claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Pertinent Arts

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Maibach et al. is cited as of interest for the teachings of topical nail composition comprising sodium hydroxide and calcium hydroxide.

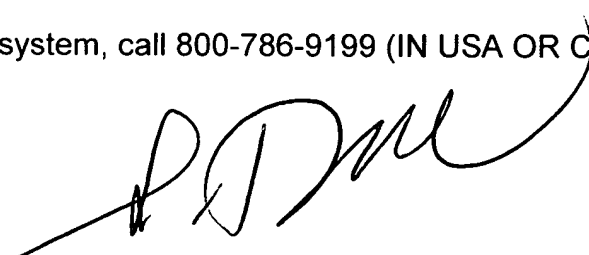
Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan T. Tran whose telephone number is (571) 272-0606. The examiner can normally be reached on M-F 6:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on (571) 272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



S. Tran
Primary Examiner
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